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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,978	12/27/2000	Viktors Berstis	AUS919990423US1	7760
35525	7590	11/30/2005	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			HAMILTON, LALITA M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/750,978

Applicant(s)

BERSTIS, VIKTORS

Examiner

Lalita M. Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,8-11,13-16,18-21,23-26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-11,13-16,18-21,23-26 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Summary**

On June 13, 2005, an Office Action was sent to the Applicant rejecting claims 1-6, 8-16, 18-26, and 28-30. On September 12, 2005, the Applicant responded by amending claims 1, 3, 11, 21, and 31 and canceling claims 2, 12, and 22.

### ***Claim Objections***

Claims 1,3-6,8-11,13-16,18-21,23-26 and 28-31 are objected to because of the following informalities: In the independent claims, "must contains a universal product code" should be "must contain a universal product code". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3-6,8-11,13-16,18-21,23-26 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshal (US 2001/0042041) in view of Siegel (US 2002/0077923).

Moshal discloses a method and corresponding system and means for an auction process comprising when a first registration of the plurality of registrations is received, searching a database containing the plurality of registrations for a complementary match, wherein the complementary match must contain information that is identical to the information of the first registration and a buy/sell indicator that is opposite to the buy/sell indicator of the first registration (p.6, 88 to p.7, 91; p.8, 104-110; and fig.1—all and 118 shows user registration); responsive to identifying a complementary match, notifying the user of the match (p.6, 88 to p.7, 91; p.8, 104-110); registering user is seller and the step of identifying a matched user comprises conducting an auction at which multiple potential buyers competitively bid against one another with the matched user being designated the winning potential buyer (p.8, 104-110—match triggers); the winning potential buyer is a potential buyer offering the highest price (p.7, 95); reverse auction (p.8, 113-115 and p.13, 169-170); winning potential seller is the potential seller with the lower selling price (p.7, 96); registering user is a buyer and the registration information includes a maximum price that the buyer is willing to pay for the item (p.6, 88 to p.7, 91—parameters); the registering user is a seller and the registration information includes a minimum price that the seller is willing to accept for the item (p.6, 88 to p.7, 91—parameters); if a complementary match is found, sending notice of said match to the respective new user and the user corresponding to the complementary

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match and removing said new registration and said complementary match from the database (p.6, 83 and 88 to p.7, 91 and p.8, 116-122—parameters); if a complementary match is not found, maintaining said new registration in said database while allowing said respective new user to modify said respective price range in correspondence to time spent in said database, wherein said new registration remains in said database until a match is found or until said respective time period expires (p.6, 83 and 88 to p.7, 91 and p.8, 116-122—parameters). Dutta does not disclose receiving, at an online site, a plurality of registrations, wherein each registration includes a UPC for a respective item, an identification of the respective user, and a buy/sell indicator that indicates whether the respective user is a seller or buyer for the respective item. Siegel teaches a method and corresponding system and means for online product registration comprising receiving, at an online site, a plurality of registrations, wherein each registration includes a UPC for a respective item, an identification of the respective user, and a buy/sell indicator that indicates whether the respective user is a seller or buyer for the respective item (fig.6-all). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate registering a UPC, as taught by Siegel into the invention disclosed by Moshal, as an additional parameter that will allowing the user successfully match up with a potential buyer/seller.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,3-6,8-11,13-16,18-21,23-26 and 28-31 have been considered but are moot in view of the new ground(s) of rejection.

***Provisional Application Listed on PTO-892 form***

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

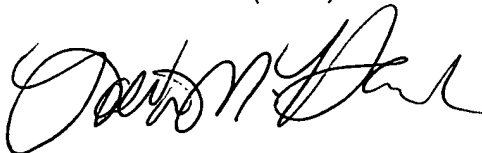
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH